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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,670	02/09/2004	Andrea Finke-Anlauff	042933/273645	9433

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ALSTON & BIRD LLP  
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CHARLOTTE, NC 28280-4000

EXAMINER
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DAYE, CHELCIE L

ART UNIT	PAPER NUMBER
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2161

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/774,670

Applicant(s)

FINKE-ANLAUFF ET AL.

Examiner

Chelcie Daye

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 10-34 and 40-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 35-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/03/2004 & 9/12/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is issued in response to Applicant's election filed November 14, 2006.
2. Claims 1-9 and 35-39 are pending. Claims 10-34 and 40-47 are withdrawn.

### ***Election/Restrictions***

3. Claims 10-34 and 40-47 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **with** traverse in the reply filed on November 14, 2006.

### ***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on 9/03/2004 & 9/12/2005 was filed after the mailing date of the application on 2/09/2004. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
6. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-9 recite "the application comprising a computer readable storage medium". Examiner is not sure how the application (i.e. software) within the claimed invention is able to comprise a computer readable storage medium. Software is used as a program for operating hardware, which is incapable of actually housing the computer readable storage medium (i.e. as defined by the specification can include HDD and flash memory). Therefore, in order to further prosecution, examiner will give the application its broadest reasonable interpretation. Corrections are required.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentability utility.

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Specifically, claims 1-9 recite "the application comprising a computer readable storage medium". It is unclear to the examiner how an application (i.e. software) is able to comprise a computer readable storage medium, which the specification has defined

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as either flash memory or a hard disk drive. It is physical not possible for software to comprise hardware. As such, the necessary physical object is non existence.

To expedite a complete examination of the instant application, the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1,4,5,35, and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang (US Patent No. 6,301,586) issued October 9, 2001.**

Regarding Claims 1 and 35, Yang discloses an application for providing access to media files on a digital device, the application comprising a computer readable storage medium having computer-readable program instructions embodied in the medium, the computer-readable program instructions comprising:

a processing unit that executes computer-readable program instructions for accessing media files (columns 4-5, lines 55-67 and 1-12, respectively, Yang);

first instructions for generating a media view that provides access to at least one digital media file and associates the at least one digital media file with a period of time (Fig. 6; column 5, lines 43-48, Yang);

second instructions for generating media file representations within the media view such that the media file representations associated with a period of time proximate a predefined position within the media view are enlarged media file representations (Figs. 7&8; column 12, lines 35-52, Yang); and

a display in communication with the processing unit that presents the media view (column 4, lines 36-41, Yang).

Regarding Claims 4 and 38, Yang discloses the application further comprising third instructions for displaying a selected media file representation from the media view in "pop-up" view format (columns 22-23, lines 66-67 and 1-11, respectively, Yang).

Regarding Claim 5, Yang discloses the application wherein the third instructions are further defined as displaying a selected media file representation from the media view in "pop-up" view format, wherein the "pop-up" view format

exceeds the size of all other media file representations within the media view  
(column 23, lines 29-31, Yang).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**10. Claims 2-3,6-9,36-37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US Patent No. 6,301,586) filed October 6, 1997, in view of Hayashi (US Patent Application No. 20020054157) filed April 27, 2001.**

Regarding Claims 2 and 36, Yang discloses all of the claimed subject matter as stated above. However, Yang is silent with respect to the media file representations associated with a period of time proximate a vertical centerline of the media view are enlarged media file representations. On the other hand, Hayashi discloses the media file representations associated with a period of time proximate a vertical centerline of the media view are enlarged media file representations (Figs. 37-39; [0267-0269], Hayashi). Yang and Hayashi are analogous art because they are from the same field of endeavor of management of multimedia objects together with software tools. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Hayashi's

teachings into the Yang system. A skilled artisan would have been motivated to combine as suggested by Hayashi at [0002-0004], in order to provide a system to quickly process displays. As a result, allowing the images within the display to operate more quickly and efficiently.

Regarding Claims 3 and 37, the combination of Yang in view of Hayashi, disclose the application wherein the second instructions are further defined as generating media file representations within the media view such that media file representations gradually decrease in size the further that an associated period of time deviates from the predefined position ([0249-0251], Hayashi).

Regarding Claim 6, the combination of Yang in view of Hayashi, disclose the application wherein the third instructions are further defined as displaying a selected media file representation from the media view in "pop-up" view format, wherein the selected media file representation is chosen from the media file representations associated with the period of time proximate to the predefined position (Abstract, Hayashi).

Regarding Claims 7 and 39, the combination of Yang in view of Hayashi, disclose the application wherein the second instructions further provide for generating media file representations within the media view such that the media file representation associated with a period of time proximate a predefined



position of the media view and proximate the center point of the predefined position is an enlarged media file representations in comparison to other media file representations in the time period proximate the predefined position (Figs. 37-39; [0267-0269], Hayashi).

Regarding Claim 8, the combination of Yang in view of Hayashi, disclose the application wherein the second instructions further provide for generating media file representations within the media view such that the media file representation associated with a time period proximate to the vertical centerline and proximate to a center point within the time period is an enlarged media file representation in comparison to other media file representations in the time period proximate the predefined position (Figs. 37-39; [0267-0269], Hayashi).

Regarding Claim 9, the combination of Yang in view of Hayashi, disclose the application wherein the second instructions further provide for generating media file representations within the media view such that the media file representations associated with a time period proximate to the vertical centerline decrease in size the further that a media file representation deviates from the center point ([0249-0251], Hayashi).

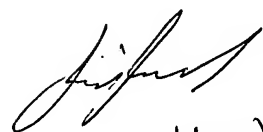
***Points of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chelcie Daye whose telephone number is 571-272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye  
Patent Examiner  
Technology Center 2100  
November 29, 2006

  
Sara AL-Hashemi